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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,756

03/22/2004

Dimitri Wasil Kemper

P/334-197

2432

2352 7590 08/16/2007
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER

SCHNEIDER, CRAIG M

ART UNIT	PAPER NUMBER
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3753

MAIL DATE	DELIVERY MODE
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08/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,756

Applicant(s)

KEMPER ET AL.

Examiner

Craig M. Schneider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/26/07 has been entered.

Election/Restrictions

2. Claims 2-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/18/07.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 7 and 5-6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lachaux (4,386,627) in view of Böke (WO 01/07356) .

Lachaux discloses an expansion tank (10) system operable to be connected to a pipe system. The expansion tank system comprising a tank configured for containing a liquid and/or gas. A connection opening (threaded end of 17) configured to connect the tank to the pipe system. A main channel (area of 17 between 18 and the threaded end) positioned between the tank and the connection opening. A main valve (25) positioned in the main channel and configured to separate the inside of the tank from the connection opening. The main valve comprising a first valve seat (18) and a first closure member (26) interacting with the first valve seat and being operable: to close off the main channel at a defined overpressure when the pressure inside the tank is greater than the pressure in the connection opening, the overpressure having a defined level, and/or to close off the main channel at a defined liquid level in the tank, the overpressure and/or liquid level in the tank closing off the main channel by pressing the first closure member against the first valve seat. The tank is defined pressure ex works (col. 4, lines 10-58 and col. 6, lines 10-52). Lachaux does not disclose an auxiliary channel extending through the first closure member of the main valve from the interior of the tank to the connection opening when the main valve is in a closed position. Lachaux further does not disclose an additional valve positioned in the auxiliary channel formed to close off the auxiliary channel. The additional valve being formed to be

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closed during normal operation of the expansion tank when connected to the pipe system and to be opened when, during operation, a second overpressure exists in the tank greater than the overpressure which exists ex works. Böke (utilizing US Patent 6,682,316 as translation) discloses an additional valve (42') for closing off an auxiliary channel or passage, which extends through the first closure member of the main valve when the main valve is in a closed position. The additional valve is closed during normal operation of the valve and is open when the difference between the pressure in the discharge side of the main valve is higher than the supply side (col. 3, lines 9-38).

Regarding claim 5, Lachaux/Böke do not disclose that the first closure member is provided with a sealing ring. Böke discloses that the first closure member comprises a sealing ring (20)(col. 2, lines 1-4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the check valve of Böke onto the main valve of Lachaux, in order to prevent damage to the system as taught by Böke (col. 3, line 31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the sealing ring on the closure member of Böke onto the first closure member of Lachaux, in order to have a better seal.

Regarding claim 6, it would have been obvious to one having ordinary skill in the art to make the sealing ring out of a rubber, in order to ensure a proper seal.

Response to Arguments

6. Applicant's arguments filed 7/26/07 have been fully considered but they are not persuasive. The applicant is arguing that Böke does not disclose an additional valve in

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an auxiliary channel that opens when a second overpressure exists in the tank. The examiner agrees with this but this is not how the examiner is utilizing the teaching of Böke onto Lachaux. The examiner is simply taking the teaching of installing a check valve into a main valve that would be used to protect the valve and system to allow excess pressure that can build up on one side to escape to another. Therefore the examiner is simply taking the check valve 42' of Böke and installing it into the main valve of Lachaux.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the main valve of Lachaux does not slam shut) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. In response to applicant's argument that Böke is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Böke and Lachaux contain valves and the examiner is simply altering the valve of Lachaux with a component of the valve of Böke. Therefore since both Böke and Lachaux contain valves and the changes being made are to the valves the art is analogous.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig M. Schneider whose telephone number is (571) 272-3607. The examiner can normally be reached on M-F 8:30 -5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMS *CMT*
August 14, 2007



GREGORY HUSON
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TECHNOLOGY CENTER 3700